



August 16, 2004

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The Honorable Pat Miller, Chairman
c/o Shara Dillon, Docket Manager
TENNESSEE REGULATORY AUTHORITY
460 James Robertson Parkway
Nashville, Tennessee 37243-0505

Re: Rural Incumbent Local Exchange Carrier Self-Certification of Eligibility to Receive
Universal Service Funds for Fiscal Year 2005, Docket No. 04-00193

Dear Chairman Miller:

This letter is submitted on behalf of Tennessee Telephone Company, an independent rural Tennessee telephone company (the "Company"). The purpose of this letter is to request that, consistent with the July 23, 2004 letter from Ms. Darlene Standley, Chief, Telecommunications Divisions, and pursuant to 47 C.F.R. §54.314 of the rules of the Federal Communications Commission ("FCC"), the Tennessee Regulatory Authority (the "TRA") certify to the Universal Service Administrative Company ("USAC") and to the FCC that the Independent is eligible to continue to receive federal high cost support in calendar year 2005.

In compliance with Ms. Standley's correspondence, and for the reasons stated below, the Company hereby certifies that all federal high cost support, including high cost loop support, local switching support, high cost support received pursuant to the purchase of exchanges, high cost model support, and hold harmless support, that the Company is eligible to receive will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with 47 U.S.C. §254(e) of the Telecommunications Act of 1996. Also in accordance with Ms. Standley's correspondence, the Company attaches information regarding the amount of federal Universal Service Fund ("USF") it received for Fiscal Year 2003, and how those funds were allocated.

As discussed below, the needed certification is the result of FCC action and is required by October 1, 2004. In the absence of the certification, a rural telephone company would be deprived of its federal support for universal service at least through the first quarter of 2005. Because of this potential adverse impact on the Independent, its customers, and Tennessee, the Independent respectfully requests the TRA issue this certification, which is consistent with all lawful requirements, the past practice and procedure of the TRA, and the public interest.

INTRODUCTION

The need for the above-described certification by the TRA arises as a result of the FCC's action in its docket, *In the Matter of Federal-State Joint Board on Universal Service, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed*

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Rulemaking in CC Docket No. 96-45 and Report and Order in CC Docket No. 00-256, CC Docket No. 96-45/CC Docket No. 00-256, 16 FCC Rcd 11244 (2001) ("FCC Order").

Specifically, the FCC adopted a requirement codified in 47 C.F.R. §54.314 that State Commissions must file an annual certification with the USAC and the FCC stating "that all federal high-cost support provided to such carriers [rural incumbent local exchange carriers and competitive carriers classified as eligible telecommunications carriers serving lines in an area of a rural incumbent local exchange carrier] will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended." The FCC did not specify a mechanism under which that certification might be accomplished. Rather, the FCC left it open for the State Commissions and the carriers to develop an appropriate mechanism, and the TRA has done just that.

In previous years, the TRA has properly relied on the submission of the Company that demonstrated the method by which it received federal USF disbursements. This demonstration, which is also provided below, fully satisfies the Company's obligation to demonstrate that its federal USF disbursements are used in a manner provided for in Section 254(e) of the Communications Act of 1934, as amended,¹ and Section 54.314 of the FCC's rules.

Accordingly, in developing this request for certification, the Independent has again compiled information regarding the extent to which checks and balances currently exist governing the Independent and all rural incumbent local exchange carriers receiving federal USF. The operation of these processes, as described in the "Background" section below, ensure that the USF directed to the Independent is both properly quantified and utilized in accordance with the provision and maintenance of the facilities and services for which the federal USF is intended.

BACKGROUND

The federal USF disbursements received by the Independent and other rural incumbent local exchange companies that are the subject of this certification are divided into two categories: Local Switching Support ("LSS"); and High Cost Loop Support ("HCLS").² The FCC in conjunction with the Federal-State Joint Board on Universal Service has created each of these mechanisms. This means that representatives from State Commissions have also been involved in the development of these mechanisms through their representation in the Joint Board process.

¹ Section 254(e) of the Act states that a carrier that receives federal USF "shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

² In prior years, the Company also referenced its receipt of Long Term Support ("LTS"). Effective July 1, 2004, however, the FCC consolidated LTS into the Interstate Common Line Support mechanism. *See generally In the Matter of Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Federal-State Joint Board on Universal Service, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 00-256, 96-45, FCC 04-31, released February 26, 2004; see also 47 C.F.R. §54.303(a).*

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LSS rules established by the FCC use the embedded costs of the rural ILECs associated with switching investments, depreciation, maintenance, expenses, taxes and an FCC established rate of return. Again, this is based upon certified cost studies submitted by each rural ILEC and reviewed by NECA. This amount is used to offset the rural ILECs' interstate switching revenue requirement. The remainder of that revenue requirement, again as set forth in the company's annual interstate cost study, makes up the switching rate which is charged to interexchange carriers.

The HCLS for rural ILECs is based upon each company's embedded, unseparated loop costs. These costs are calculated using a set of complex algorithms approved by the FCC, the inputs for which are scrutinized by NECA. Pursuant to the *FCC Order*, safety net additive support is support above the HCLS cap for carriers that make significant investment in rural infrastructure in years in which HCLS is capped. To receive safety net additive support, a rural carrier must show that growth in telecommunications plant in service (TPIS) per line is at least 14 percent greater than the study area's TPIS in the prior year. Carriers seeking to qualify for safety net additive support must provide written notice to USAC that a study area meets the 14 percent TPIS trigger.

All of these programs are administered through the USAC. USAC, as a private, not-for-profit corporation, is responsible for the administration of the federal USF that is established to provide every state and territory of the United States with access to affordable telecommunications service through the Federal Universal Service Fund. USAC has contracted with NECA to assist in data collection necessary for the remittance of universal service funds. What this means is that each company submits, no less frequently than annually, detailed information requested by NECA in the USF data collection process.

The rural ILECs must attest to information that is submitted. Further, NECA and its auditors must attest to the validity and integrity of NECA's process. In other words, the ILEC cost studies and responses to data collection requests are subject to audit. The information provided in response to all of the universal service fund mechanisms utilizes FCC accounts for regulated costs and must be in compliance with FCC rules in Parts 32, 36, 54 and 64.

All cost studies submitted by rural ILECs and all USF funding submitted by rural ILECs must be based upon financial statements. In addition, NECA performs focus reviews of cost studies as well as the USF filings for the cost companies involved in the NECA process. In addition, an officer of the rural ILEC must certify the accuracy and validity of the filed information.

USF data used in the USF calculations by NECA must also be filed with the FCC in October of each year. This data contains the regulated financial inputs into the algorithm as well as the number of loops that will receive universal service support.

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**THE INDEPENDENT RESPECTFULLY SUBMITS THAT IT
QUALIFIES FOR THE NEEDED FOR §54.314 CERTIFICATION**

The Independent respectfully submits that, given the number and nature of the checks and balances already in place, the TRA may lawfully and appropriately rely upon this self-certification by the Independent. The requirements, procedures, and processes to which the Independent adheres, as set forth above, provide the necessary and sufficient basis for the TRA to provide its certification to USAC and the FCC, and to thereby ensure that the Independent and its customers will not be deprived of the USF funding to which the Independent and its customers are entitled pursuant to all applicable rules and regulations. Essentially, under the existing rules and processes discussed above, the federal support funds received by the Independent and other incumbent rural telephone companies are, in fact, an integral part of the rural ILEC's recovery of expenditures incurred in the provision, maintenance and upgrading of its provision of universal service.

In many respects, the newly required certification process is very similar to the self-certifications that were involved in the designation of the rural ILECs as eligible telecommunications carriers ("ETCs") in the initial instance. The TRA, consistent with the practices of other state utility authorities throughout the nation, utilized this process in the initial designation of ETCs, thereby fulfilling its right, as established by the Telecommunications Act of 1996, to designate a carrier as an ETC.

Accordingly, the grant of this request for certification is consistent with past practice and procedure. The very same procedure and process undertaken by the TRA that is valid for designation of the Independent to be eligible to receive funds is also rationally valid as the basis for the necessary certification that the Independent *will* use those funds, once received, for the purposes for which they are intended. Again, for the Independent and other rural ILECs, there are processes and safety mechanisms in place that include audits of the information that is submitted to USAC and FCC to ensure that the basis for the calculation of the funds is appropriate.

The proposed grant of certification for the Independent, as requested herein, is also consistent with the certification mechanism the FCC has established for carriers that are not regulated by state commissions. In the *FCC Order*, the FCC set out a self-certification mechanism for those carriers (tribal entities and others that are not regulated by state commissions). See 16 FCC Rcd at 11318 (para.189). The Independent, as discussed above, represents to the TRA that it adheres to and complies with all required processes, and that its expenditures of USF funds will be consistent with the applicable rules and foster the provision of facilities and services for which the funding is intended. This representation and affirmation by the Independent to the TRA is consistent with that required by the FCC with respect to certification of a carrier not subject to the authority of the State.

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CONCLUSION

The need to respond to the FCC's certification requirement in a timely and efficient manner is critical to the Independent and other rural incumbent telephone companies, their customers and the public interest in general. Pursuant to the FCC's rules, if certification is not accomplished by October 1, 2004, then support for universal service in the areas served by the Independent and other rural carriers within the State of Tennessee will not be provided for at least the first quarter of 2005. The resulting need to address the company's revenue deficiencies is otherwise unnecessary provided that timely certification is achieved.

The Independent provides the representation and affirmation set forth above, together with the background information in support of the certification request and that attached, in order to assist the TRA in the timely implementation of the FCC's certification requirement in a manner that is consistent with all applicable rules and regulations, the TRA's past practices and procedures, and the public interest. Accordingly, the Independent respectfully requests that the TRA afford this request for certification pursuant to §54.314 of the FCC's rules and regulations expedited consideration and grant.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Hess / w/ permission [illegible]".

Kevin Hess
Vice President - Federal Affairs

Attachment

Schedule A

TENNESSEE TELEPHONE COMPANY

UNIVERSAL SERVICE FUND REVENUES RECORDED DURING 2003

Amount

5082110

Total USF Recorded in 2003

HCL	1,349,227
LSS	-
LTS	2,026,530
ICLS	132,984
	<u>3,508,741</u>

Source: General Ledger, HCL Account 5082110, LSS and LTS embedded in 508.22, ICLS embedded in A

CAPITAL ADDITIONS RECORDED IN 2003

Additions

General Support Assets	307,727
Central Office Assets	2,163,069
Cable & Wire Facilities	2,918,237
Total Capital Additions Recorded in 2003	<u>5,389,033</u>

Source: 2003 Tennessee Regulatory Authority Annual Report, Page 4

OPERATING EXPENSES

2003

Network Support Expense	118,240
General Support Expense	439,714
Central Office Switching	757,595
Central Office Transmission	490,761
Cable & Wire Facilities	2,004,781
Network Operations	3,832,300
Depreciation and Amortization	10,464,742
Customer Operations	7,372,477
Corporate Operating	7,316,693
Operating Other Taxes	860,658
Total Operating Expenses	<u>33,657,961</u>

Source - 2003 TRA Annual Report, Pages 9,10 and 11